

Amendments to the Claims:

This listing of all pending claims (including withdrawn claims) will replace all prior versions, and listings, of claims in the application. Cancelled and not entered claims are indicated with claim number and status only. The claims show added text with underlining and deleted text with ~~striketrough~~. The status of each claim is indicated with one of (original), (currently amended), (cancelled), (withdrawn), (new), (previously presented), or (not entered).

Listing of Claims:

1. (Previously Presented) A suspension for a running toy, comprising:
first and second turning members which turn respectively first and second wheels connected thereto about respective first and second shafts of the first and second turning members movably received by a chassis of the toy;
a member which connects the first and second turning members and which forms a turning device with each of the first and second turning members; and
a leaf spring which is supported on top of the chassis by a middle portion thereof;
wherein upper portions of the first and second shafts project from the top of the chassis and are in contact with the leaf spring to be subjected to a downward biasing force caused by elastically deforming the leaf spring,
wherein the chassis includes a recess portion at which the middle portion of the leaf spring is held.
2. (Original) A running toy comprising the suspension as claimed in claim 1.
3. (Original) The suspension as claimed in claim 1, wherein the leaf spring is detachable.
- 4-5. (Canceled)
6. (Previously Presented) The suspension as claimed in claim 1, wherein the middle portion of the leaf spring includes a shaft, and the shaft of the leaf spring is received at least partially in the recess portion of the chassis.
7. (Previously Presented) The suspension as claimed in claim 6, wherein the leaf spring and the shaft connected to the chassis are formed as a unitary member.

8. (Original) The suspension as claimed in claim 1, wherein the leaf spring is made of metal or plastic.

9-15 (Canceled)

16. (Previously Presented) A suspension for a running toy, comprising;
spaced turning members attached to a chassis of the toy via respective vertical shafts, each turning member receiving a wheel; and
a biasing member that contacts a portion of each vertical shaft protruding from a top of the chassis and exerts a downward force on each turning member and the respective wheel, said biasing member being connected to the top of the chassis,
wherein either wheel can move in a vertical direction while being biased by the biasing member, and
wherein the chassis includes a recess portion at which the biasing member is held.

17-20. (Canceled)

21. (Original) A running toy comprising the suspension as recited in claim 16.

22. (Canceled)

23. (Previously Presented) The suspension as claimed in claim 16, wherein the biasing member is detachable.

24. (Previously Presented) The suspension as claimed in claim 16, wherein the biasing member is held in the recess portion of the chassis by a shaft connected to the chassis.

25. (Previously Presented) The suspension as claimed in claim 24, wherein the biasing member and the shaft connected to the chassis are formed as a unitary member.

26. (Previously Presented) The suspension as claimed in claim 16, wherein the biasing member is made of metal or plastic.

27. (Previously Presented) A suspension for a running toy, comprising;
spaced turning members attached to a chassis of the toy via respective vertical shafts,
each turning member receiving a wheel; and
a biasing member that contacts a portion of each vertical shaft protruding from a top of
the chassis and exerts a downward force on each turning member and the respective wheel,
said biasing member being connected to the top of the chassis,
wherein either wheel can move in a vertical direction while being biased by the biasing
member,
wherein the biasing member includes a projecting portion, and
wherein the chassis includes a recess portion at which the biasing member is held by the
projecting portion.

28. (Previously Presented) A running toy comprising the suspension as recited in
claim 27.

29. (Previously Presented) The suspension as claimed in claim 27, wherein the
biasing member is detachable.

30. (Previously Presented) The suspension as claimed in claim 27, wherein the
projecting portion of the biasing member is a shaft received in the recess portion of the chassis.

31. (Previously Presented) The suspension as claimed in claim 30, wherein the
biasing member and the shaft connected to the chassis are formed as a unitary member.

32. (Previously Presented) The suspension as claimed in claim 27, wherein the
biasing member is made of metal or plastic.

33. (Previously Presented) A suspension for a running toy, comprising:
first and second turning members which turn respectively first and second wheels
connected thereto about respective first and second shafts of the first and second turning
members movably received by a chassis of the toy;
a member which connects the first and second turning members and which forms a
turning device with each of the first and second turning members; and
a leaf spring supported at a middle portion thereof on a top of the chassis;

wherein upper portions of the first and second shafts project from the top of the chassis and are in contact with the leaf spring to be subjected to a downward biasing force caused by elastically deforming the leaf spring,

wherein the leaf spring includes a projecting portion, and

wherein the chassis includes a recess portion at which the projecting portion of the leaf spring is held.

34. (Previously Presented) A running toy comprising the suspension as claimed in claim 33.

35. (Previously Presented) The suspension as claimed in claim 33, wherein the leaf spring is detachable.

36. (Previously Presented) The suspension as claimed in claim 33, wherein the projecting portion of the leaf spring is a shaft received in the recess portion of the chassis.

37. (Previously Presented) The suspension as claimed in claim 36, wherein the leaf spring and the shaft connected to the chassis are formed as a unitary member.

38. (Previously Presented) The suspension as claimed in claim 33, wherein the leaf spring is made of metal or plastic.

39. (Previously Presented) A suspension for a running toy, comprising:
first and second turning members which turn respectively first and second wheels connected thereto about respective first and second shafts of the first and second turning members movably received by a chassis of the toy;

a member which connects the first and second turning members and which forms a turning device with each of the first and second turning members; and

a leaf spring which is supported at a middle portion thereof by the chassis;

wherein upper portions of the first and second shafts project from the chassis and are in contact with the leaf spring to be subjected to a downward biasing force caused by elastically deforming the leaf spring,

wherein the chassis includes a recess portion formed in an upper surface thereof at which the leaf spring is held.

40. (Previously Presented) A running toy comprising the suspension as claimed in claim 39.

41. (Previously Presented) The suspension as claimed in claim 39, wherein the leaf spring is detachable.

42. (Previously Presented) A suspension for a running toy, comprising;
two spaced turning members attached to a chassis of the toy via respective vertical shafts, each turning member receiving a wheel; and
a biasing member having side portions, each of which contacts a protruding portion of each vertical shaft and exerts a downward force on each turning member and the respective wheel, said biasing member being connected to the chassis,
wherein either wheel can move in a vertical direction while being biased by the biasing member, and
wherein the chassis includes a recess portion formed in an upper surface thereof at which the biasing member is held.

43. (Previously Presented) A running toy comprising the suspension as recited in claim 42.

44. (Previously Presented) The suspension as claimed in claim 42, wherein the biasing member is detachable.

45. (Previously Presented) A suspension for a running toy, comprising:
first and second turning members which turn respectively first and second wheels connected thereto about respective first and second shafts of the first and second turning members movably received by a chassis of the toy;
a member which connects the first and second turning members and which forms a turning device with each of the first and second turning members; and
a leaf spring which has side portions and is supported at a middle portion thereof by the chassis;
wherein upper portions of the first and second shafts project from the chassis and are in contact with respective side portions of the leaf spring to be subjected to a downward biasing force caused by elastically deforming the leaf spring,

wherein, when one wheel is moved up, one side portion of the leaf spring is bent and, when both wheels are moved up, both side portions of the leaf spring are bent, and wherein the chassis includes a recess portion at which the leaf spring is held.

46. (Previously Presented) A running toy comprising the suspension as claimed in claim 45.

47. (Previously Presented) The suspension as claimed in claim 45, wherein the leaf spring is detachable.

48 (Previously Presented) A suspension for a running toy, comprising;
two spaced turning members attached to a chassis of the toy via respective vertical shafts, each turning member receiving a wheel; and
a biasing member having side portions, each of which contacts a protruding portion of each vertical shaft and exerts a downward force on each turning member and the respective wheel, said biasing member being connected to the chassis,

wherein, when one wheel is moved up, one side portion of the biasing member is bent and, when both wheels are moved up, both side portions of the biasing member are bent, and wherein the chassis includes a recess at which the biasing member is held.

49. (Previously Presented) A running toy comprising the suspension as recited in claim 48.

50. (Previously Presented) The suspension as claimed in claim 48, wherein the biasing member is detachable.

II. REMARKS

A. Introduction

In this Office Action claims 1-3, 6-8, 16, 21 and 23-50 are noted as pending and are rejected.

In summary of this Response, remarks are provided.

B. Rejection of claims 1-3, 6, 7, 16, 21, 23-25, 27-31, 33-37 and 39-44 Under 35 U.S.C. Section 103

These claims are rejected as being made obvious by Minato, newly-cited Paquette, U.S. Patent 4,647,067 and newly-cited Gillitzer, U.S. Patent 2,473,519.

Minato is cited for teaching "the basic inventive concept" with the exception of the "chassis having a recess portion in which the biasing member or leaf spring is held." In this regard, the Examiner's position regarding Minato is consistent with the current reexamination proceeding concerning the parent, U.S. Patent No. 6,656,011. See Action Closing Prosecution dated September 24, 2007 at, e.g., page 2, last two lines over to page 3, lines 1-5 ("Minato fails to teach a 'recess portion formed in the upper surface of the upper chassis.' The Merriam Webster's Collegiate Dictionary, Tenth Edition defines a 'recess' as an 'indentation or cleft', therefore one with ordinary skill would not interpret the loop-like members (38a and 38b) of Minato as a recess since they are not indentations or clefts. Additionally the loop like members of Minato are not in the upper surface of the upper chassis ... but rather on the upper surface...").

As a reminder, each of the rejected independent claims 1, 16, 27, 33, 39 and 42 recites that the chassis has a "recess" portion at which the leaf spring/biasing member is held. Also, each of these claims recites a cooperative relationship between shafts extending from turning members and the spring held by the recess, such that the former directly contacts the latter and are biased downwardly thereby.

In light of the above-noted shortcoming of Minato, Paquette is relied upon herein for teaching a bracket 39 for receiving a shaft/spring 38/39, respectively, reference being made to Figs. 12, 13 of the reference. Gillitzer is relied upon for a similar teaching, i.e., a "recess" supposedly in a chassis for receiving a leaf spring.

For the following reasons it is respectfully submitted that the present invention, as recited by claims 1-3, 6, 7, 16, 21, 23-25, 27-31, 33-37 and 39-44, was not rendered obvious by the cited combination.

Initially, it is noted that the Paquette and Gillitzer references are of record in the reexamination but have not been applied to the claims in the reexamination.

Nevertheless, the Paquette bracket 39 is the same as the projections 38(a)(b)) of Minato, in that they merely extend upwardly from a flat chassis surface. In this regard, the chassis 30 of Paquette is "flat". Col. 3, line 64. See also Figs. 12 and 13. Further, Paquette uses levers 37 which extend transversely of the chassis 30 and pivot intermediate their respective ends "at 38 on a bracket, which is itself pivoted about a vertical pivot pin 40... upstanding from the chassis 30 and provided at the joint with ball bearings 41. Therefore, the lever 37 is free to pivot in a plane normal to the main plane of chassis 30 above said chassis and also to pivot in a plane parallel to that of said chassis." Col. 4, lines 16-24. If the brackets 39 were a recess in the flat upper surface of the chassis 30, such pivoting would not be possible.

Further, the lever 37 of Paquette is not a spring and certainly not a leaf spring or biasing member. That is, the lever 37 is a support member for the shock absorber arrangement 43, discussed below, including a coil spring. This spring is a "compression spring and, preferably, shock absorber arrangement 43 ... disposed within the gap between the outer ends 42 and the arms 35, making resilient connection between the arms 35 and the lever 37" (Col. 4, lines 27-35). This coil spring is much like the prior art discussed at numbered paragraphs [0005] and [0006] of the present application ("However, there are many cases that a difference in the characteristics between the right and left coiled springs is caused. Therefore, there is some possibility that the right and left steering wheels are not properly grounded. In this case, there is a problem that the vehicle toy cannot steer steadily. Moreover, because each of the right and left knuckle arms is provided with a coil spring, the assembly of the suspension is complicated. Furthermore, there is another problem, such as, that the number of components used in the suspension becomes more." For these reasons, a person of ordinary skill in this art would not refer to Paquette for an improvement of an arrangement of a leaf spring or biasing member as recited herein.

The bracket 46 of Paquette is also upstanding from the flat chassis, and the arms 44 are not springs, and thus these features add nothing further to the teaching to Paquette relative to the claims herein.

Further, the present invention relates to wheel turning members including shafts that contact a leaf spring or biasing member so that the turning members are biased while turning the wheels. The embodiment of Paquette that is relied upon by the Examiner doesn't even have wheels that can be turned: all four wheels shown in Figs. 8-16 rotate only forward or backward, but otherwise remain parallel.

Thus, using the upstanding bracket 39 of Paquette to replace the upstanding loop-like members 38 (a) and (b) of Minato is a meaningless substitution, since the same structure results as Minato alone, i.e., members extending upward from a flat surface of a chassis.

Thus, the question is still whether one of ordinary skill would have been taught to modify Minato or the equivalent Minato/Paquette by Gillitzer to add a recess in the upper portion of the Minato chassis to hold a leaf spring or biasing member. It is respectfully submitted the answer is no.

Gillitzer is cited specifically for teaching “a portion of a vehicle chassis (32) having a recess therein in the form of a cleft created by a hollow located between protuberances of the frame ... for supporting or attaching a leaf spring (31) ...”. Office Action, page 3.

Gillitzer, like Paquette, has a flat frame or chassis 14 as shown in Figs. 2 and 3 and described at Col. 2, lines 34-37 and 49-54. This “frame has a transverse front end member 32 of inverted U or triangular shape, the apex of which is secured to the center portion of spring 31 by suitable clamp plates 33 and bolts 34.” Col. 3, lines 26-30. Further, the “frame front-end member 32 depends from the center portion of the front spring within the U-shaped intermediate portion of the spring and the front end of the frame 14 is supported thereby upon the front axle 11.” Col. 3, lines 30-34. Moreover, referring to Fig. 3, the spring 31 is supported by a combination of the front-end member 32, clamp plate 33 and bolt 34 coupled each other. The shape of the support defined by the combination is a rectangular cross-section through hole, not a recess in the chassis.

Thus, Gillitzer's structure includes a flat frame or chassis 14, shown best in Fig. 2, to which is attached a separate member 32 which receives and attaches to the spring 31. Note in, e.g., Fig. 3, the frame 14 to which the member 32 is attached upwardly therefrom. As with Minato and Paquette, the member 32 extends upwardly from the upper surface of the chassis or frame 14, so there is no significant modification to be made to Minato which has the same teaching. Also, as with Paquette, the spring 31 of Gillitzer does not contact any turning members attached to the wheels again questioning why one of ordinary skill would consider Gillitzer when seeking to improve upon the drawbacks to conventional turning member/coil spring combinations described at numbered paragraphs [0005] and [0006] of the present application.

C. Rejection of Claims 8, 26, 32 and 38 Under 35 USC §103

The dependent claims, which recite the spring/biasing member being made of plastic or metal, are rejected based on the Minato/Paquette/Gillitzer combination and previously-cited

Perryman.

The above comments regarding the inability of the Minato/Paquette/Gillitzer combination to render obvious the invention recited by the independent claims, from which these rejected claims depend, is expressly incorporated herein. Regardless of any materials teaching of Perryman, it is respectfully submitted that Perryman fails to compensate for this failure of the underlying combination to teach the recess in the chassis feature for holding a leaf spring/biasing member that contacts turning members while biasing same.

D. Rejection of Claims 45-50 Under 35 USC § 103

Claims 45-50, of which claims 45 and 48 are independent, are like the independent claims discussed above as they each recite the recess. These claims are rejected as being made obvious by the Minato/Paquette/Gillitzer combination discussed above, and further in view of newly-cited Booher, U.S. Patent No. 4,893,832, which is cited for teaching a leaf spring configured to have one side bend in response to one wheel being moved up, and allowing both sides to bend if both wheels are moved up.

Initially, Applicant is unable to find support in Fig. 7 for the statement "a leaf spring configured to allow either one side or both sides to bend in response to movement of the wheels." The written description of Booher also does not include any such support. The deflections shown in Figs. 5 and 8 suggests deflection of both arms at the same time.

Nevertheless, even if Booher relates to a suspension that allows movement of one or both wheels, the reference still fails to address the underlying incompleteness of the Minato/Paquette/Gillitzer combination, i.e., at least the recess in the chassis feature.

E. Information Disclosure Statement

In the last Response Applicant had brought to the Examiner's attention that she had failed to fully consider certain foreign references. It appears that the Examiner has now made them of record. However there is another foreign reference, i.e., a search report that was of record in the above-referenced parent that the Examiner now claims is not of record [discuss]

F. Rejection of Claims 8, 26, 32 and 38 Under 35 U.S.C. § 103

These claims are rejected as being made obvious by the above combination and further in view of Perryman, also already of record.

The above comments regarding the inability of the underlying combination's failure to disclose or teach the invention recited by the claims from which these rejected claims depend,

are expressly incorporated herein.

G. Information Disclosure Statement ("IDS") Filed September 29, 2003 and Re-Submitted April 27, 2007

The PTO Form 1449 supplied with the September 29, 2007 Information Disclosure Statement re-submitted on April 27, 2007 acknowledges receipt of the four British references discussed in Section II. G. of the April 27, 2007, Response. However, the "Combined Search and Examination Report" issued in counterpart application GB 0205524.2, August 21, 2002 has been crossed through. The August 13, 2007 Office Action indicates a failure to provide "a legible copy of each...foreign patent document...non-patent literature publication...all other information". As this quote is unclear as to whether it relates only to the stricken "Search Report", the undersigned spoke to the Examiner on August 13 2007. During this teleconference, the Examiner indicated that she could not locate a copy of the reference in the parent's file.

The "Combined Search and Examination Report" issued in counterpart application GB 0205524.2, August 21, 2002 was filed by way of an IDS filed October 17, 2002 in the parent Serial No. 10/056,110 (the "'110 application"). Please see Exhibit A attached to the April 27, 2007 Response.

In a July 3, 2003 Office Action in the '110 application, the Examiner initialed this "Combined Search and Examination Report" as having been received and considered. A copy of this Office Action is attached as Exhibit B to the April 27, 2007 Response. Clearly, copies of this "Combined Search and Examination Report" were in the '110 file at the time of mailing of the Office Action.

Finally, the front page of the U.S. Patent No. 6,656,011 resulting from the '110 application lists this "Combined Search and Examination Report" as having been cited by Applicant, consistent with above.

In light of the above, the "Combined Search and Examination Report" issued in counterpart application GB 0205524.2, August 21, 2002" was in the file for the '011 application. It is not understood how this reference could now be missing from the file, or why it is Applicant's duty to prove it was appropriately filed and considered in the '011 application.

Nevertheless, attached is another IDS citing the "Combined Search and Examination Report" issued in counterpart application GB 0205524.2, August 21, 2002." It is expressly requested that the Examiner make this document of record in this continuation application.